

U.S. Patent Application Serial No. 09/957,400

Response dated December 29, 2003

Reply to OA of **September 26, 2003**

REMARKS

Claims 1 to 8 are in the application wherein claims 1 to 6 stand finally rejected under 35 U.S.C. §103(a) in view of cited prior art. Claims 7 and 8 are indicated in the Office Action as containing patentable subject matter.

The interview accorded Applicant's attorney by the Examiner is gratefully acknowledged. At the interview it was agreed that claims 1 to 6, in view of the amendments made herein to these claims, all patentably distinguish the invention over the cited references. Specifically, as now structured all of the claim in the application particularly recite that the claimed muffler contains in the external tube a projection which extends into the sound absorbing material disposed between the concentrically spaced tubes that comprise the apparatus whereby the material is stabilized against displacement, slippage or wrinkling within the space.

This feature is clearly not taught in the cited prior art wherein the principle reference, Flugger, discloses no more than a muffler organization whose structure embodies the problem addressed by the present invention but not the solution. It was pointed out, moreover, that, contrary to the position reflected in the rejection, the patent to Heath only shows, not a muffler as required by the claims in the application, but instead a heat shield for a tail pipe wherein projections in the form of dimples in Figs. 2 and 3 or corrugations in Figs. 4 and 5 serve to physically space the heat shield from the tail pipe as well as to conduct heat therefrom to the heat shield plates for dispersal.

Morikawa only shows multi-layered sound absorbing material and is otherwise incapable of curing the defects in the other references as teachings of the invention.

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Claims 7 and 8 have been amended as suggested by the Examiner to place them in an allowable condition.

For the foregoing reasons it was agreed at the interview that the claims, particularly as now amended, all patentably distinguish the invention over the references.

In view of the above, Applicant respectfully requests that the Examiner enter this Amendment in the case and pass the application to issue. In the event the Examiner is constrained to retain the rejection of claims in the application it is requested that the Examiner nonetheless enter the amendments to claims 1, 2, 5, 6, 7 and 8 herein in order to place the application in better condition for appeal.

On the other hand, however, if the Examiner finds that minor revision is still required to render the claims satisfactory, it is requested that he call the Applicant's attorney at the telephone number indicated below in order to expedite the changes required to place the application in condition for allowance.

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In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees which may be due with respect to this paper, may be charged to Deposit Account No. 01-2340.

Respectfully submitted,

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